

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte DeLong et al.

Appeal No. _____

Appellant: Delong et al.
Serial No.: 10/710,711
Filed: July 29, 2004
Art Unit: 3612
Examiner: Joseph Pape
Title: Removable Multipurpose Console
Confirmation No.: 4710
Attorney Docket: MASLIAC-50

Cincinnati, OH 45202

September 24, 2007

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

BRIEF ON APPEAL

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September 24, 2007
Date

INDEX

I.	Real Party in Interest.....	1
II.	Related Appeals and Interferences.....	1
III.	Status of the Claims	2
IV.	Status of Amendments	2
V.	Summary of Claimed Subject Matter.....	2
VI.	Grounds of Rejection to be Reviewed on Appeal.....	3
VII.	Argument	4
A.	Claims 8 and 11-12 were improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over <i>Soeters</i> in view of <i>Larsen</i>	4
B.	Claims 9 and 10 were improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over <i>Soeters</i> in view of <i>Larsen</i> and <i>Johnson</i>	6
C.	Claims 13 and 14 were improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over <i>Soeters</i> in view of <i>Larsen</i> and <i>Grabowski</i>	8
D.	Claim 15 was improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over <i>Soeters</i> in view of <i>Larsen</i> , <i>Gaus</i> , and <i>Johnson</i>	9
VIII.	Conclusion	9
	APPENDIX OF CLAIMS.....	10
	APPENDIX OF EVIDENCE.....	13
	APPENDIX OF RELATED PROCEEDINGS	14

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BRIEF ON APPEAL

I. Real Party in Interest

The real party in interest is International Automotive Components Group, LLC, which is the assignee of the present application.

II. Related Appeals and Interferences

There are no related appeals or interferences known to Appellants or Appellants' legal representative that will directly effect or be directly effected by or have a bearing on the decision of the Board in the present appeal.

III. Status of the Claims

Claims 1-7 and 16-20 were previously cancelled. Claims 8-15 stand rejected and are now on appeal.

IV. Status of Amendments

There have been no amendments filed subsequent to the final rejection mailed on November 15, 2006.

V. Summary of Claimed Subject Matter

Appellants' independent claim 8 is directed to a multipurpose console (10) for use in a vehicle. *See* Fig. 1. The console (10) comprises a housing (12) having a power contact (206) adapted to cooperate with a power source of the vehicle to provide power to the console. *See* Figs. 5A-6 and paragraph [0037]. A latching mechanism (168) fixedly secured to a lower surface (170) of the housing is configured to releasably engage a mounting mechanism (172) of the vehicle so that the housing may be fastened to and removed from the vehicle. *See* Figs. 5A-5C and paragraph [0036]. The multipurpose console also includes a transport device (244), such as a shoulder strap, configured to removably connect with the housing to transport the housing when the housing is removed from the vehicle. *See* Fig. 7 and paragraph [0043].

Appellants' claim 9 depends from claim 8 and further specifies the housing including a built-in speaker (88) and a sound contact (208) adapted to cooperate with the vehicle to provide sound to the built-in speaker. *See* Figs. 1 and 5A and paragraph [0038]. Claim 10 depends from claim 9 and further recites that the latching mechanism includes at least one of the power and sound contacts. *See* Fig. 5A and paragraphs [0036] and [0037]. The power and sound contacts are adapted to cooperate with mating power and sound contacts on the vehicle when the latching mechanism is fastened to the mounting mechanism of the vehicle.¹ *See* paragraphs [0037] and [0038].

¹ Claim 10 mistakenly refers to "the mounting member" instead of "the mounting mechanism." Appellants acknowledge that there is no antecedent basis in claim 10 for this term and will make the appropriate correction (by replacing the word "member" with the word "mechanism") at the appropriate time after this appeal.

Appellants' claim 11 depends from claim 8 and specifies that the transport device is configured to be removably secured to at least one anchor point (242) associated with the housing to transport the housing. *See* Fig. 7 and paragraph [0043]. Claim 12 depends from claim 11 and further recites the housing having opposing ends (238, 240) and two anchor points, each of which is associated with one end of the housing. The transport device is configured to be removably secured to one of the two anchor points to transport the housing.

Appellants' claim 13 depends from claim 8 and further recites the housing having a rechargeable battery source (214) and an inverter (234) to provide battery power to the console. *See* Fig. 2 and paragraph [0041]. The power contact is adapted to recharge the battery source. *See* paragraph [0041].

Appellants' claim 14 depends from claim 8 and further recites the housing including a 110 volt power outlet (216) adapted to receive a plug and provide power to an independent electronic device. *See* paragraph [0042]. Examples of such independent electronic devices provided in the specification include, without limitation: a DVD/CD player, handheld devices, and a TV. *See, e.g.,* paragraphs [0030] and [0042]. The power is provided to the outlet by the power contact of the console. *See* paragraph [0042].

And finally, Appellants' claim 15 depends from claim 8 and further recites the housing including a first compartment (36) having a thermoelectric cooling device (30) for cooling the first compartment. *See* Fig. 2 and paragraph [0027]. Claim 15 also specifies that the housing includes an electronic device, which may include a radio (76) and/or MP3 input (84), and that the power source is adapted to provide power to the thermoelectric device and the electronic device. *See* paragraphs [0009].

VI. Grounds of Rejection to be Reviewed on Appeal

1. Claims 8 and 11-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Soeters U.S. Patent No. 5,106,143 ("*Soeters*") in view of Larsen et al. U.S. Patent Application Pub. No. 2003/0122392 ("*Larsen*").

2. Claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Soeters* in view of *Larsen* and Johnson U.S. Patent No. 3,827,772 ("*Johnson*").

3. Claims 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Soeters* in view of *Larsen* and Grabowski et al. U.S. Patent No. 6,811,197 ("*Grabowski*").

4. Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Soeters* in view of *Larsen*, *Johnson*, and Gaus U.S. Patent No. 4,545,211 ("*Gaus*").

VII. Argument

Appellants respectfully submit that the Examiner's rejections of claims 8-15 were in error and should be reversed.

A. Claims 8 and 11-12 were improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over *Soeters* in view of *Larsen*.

The Examiner argues that the disclosure of *Soeters* in view of *Larsen* renders the subject matter of claims 8 and 11-12 obvious under 35 U.S.C. § 103(a). A *prima facie* showing of obviousness, however, requires that all claimed features be disclosed or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970).

In the instant case, Appellants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness because *Soeters* fails to teach or suggest all of the recitations in claims 8 and 11-12, and *Larsen* fails to cure this deficiency. Accordingly, Appellants submit that the rejection of claims 8 and 11-12 should be reversed. Appellants address the various claims that are the subject of the Examiner's rejection below.

Independent Claim 8

In contrast to Appellants' independent claim 8, *Soeters* fails to disclose a multipurpose console having a housing with a latching mechanism "fixedly secured to a lower surface of the housing." Additionally, as acknowledged by the Examiner, *Soeters* fails to disclose "the specific transport device [of claim 8] . . . which is removable." Office Action mailed November 15, 2006, at page 3.

Instead, *Soeters* discloses a floor-mounted console 20 having an outer shell 28 defining left and right sides 22, a front wall 21, and a rear wall 23. The bottom of the outer shell 28 is open. See, e.g., Fig. 1. Thus, although the console 20 may include a mounting bracket 50 with a

catch 54 (which the Examiner points to as the claimed latching mechanism), neither of these components are "fixedly secured to a lower surface of the [console] housing," as required by claim 8. The mounting bracket 50 is merely mounted between the left and right sides 22 of the outer shell 38 above the lower edge 22'. No lower surface is necessary because, unlike the console in the present application, *Soeters* does not indicate that the console 20 is intended to be used anywhere other than in a vehicle (where the open-base shell 28 is mounted to a floor area 10). A transport device, such as a shoulder strap, is not required in *Soeters* for substantially the same reason.

Combining *Soeters* with *Larsen* fails to cure these deficiencies. In particular, *Larsen* discloses a modular console 10 that includes a base 13 coupled to a floor 20 of a vehicle and one or more removable totes 16 each disposed in a corresponding recess 24 of the base. *See* Fig. 1. Although the removable totes may be provided with a removable strap 51 (*see* paragraph [0027]), the totes are not multipurpose consoles as set forth in Appellants' claim 8. The totes are instead components of the modular console in *Larson* and, therefore, more akin to a purse or a bag. The problem solved by *Larson* is particularly instructive:

. . . [I]t is known to have a console system for the interior in a vehicle and having a storage bin or tray or the like. Further, for sometime, it has been known that occupants of vehicles carry or bring purses, bags and the similar into the occupant compartment of a vehicle for carrying numerous items. However, many of the know[n] console systems have significant draw backs for example, items located in a storage bin located in a console in a vehicle that an occupant wishes to take with her when leaving the vehicle must be transferred from the permanent console system to a hand bag or other similar carriers or must be hand carried. This can be a significant problem in view of the proliferation of electronic devices and media used by individuals.

Larson, paragraph [0002].

Thus, if any anything, *Larson* would merely lead one of ordinary skill in the art to consider modifying the floor-mounted console of *Soeters* into a modular system including at least one component in the form of a tote that lifts away from a base coupled to the floor of a vehicle. Nothing in *Larson* teaches that an entire multipurpose console—specifically, a multipurpose console having a power contact and configured to engage a mounting mechanism on a vehicle—

should be removed from the vehicle and transported with a transport device (such as a removable strap).

For at least the reasons above, the combination of *Soeters* and *Larsen* fails to present a *prima facie* case of obviousness. Accordingly, Appellants submit that the Examiner's rejection of claim 8 was in error and request that it be reversed.

Dependent claims 11 and 12.

Claims 11 and 12, which depend either directly or indirectly from independent claim 8, are not argued separately.

B. Claims 9 and 10 were improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over *Soeters* in view of *Larsen* and *Johnson*.

Claims 9 and 10 depend directly or indirectly from claim 8. The Examiner argues that claims 9 and 10 are unpatentable over the references applied to claim 8, and further in view of *Johnson*. Because *Johnson* fails to cure the deficiencies of *Soeters* and *Larsen*, Appellants submit that the rejection of claims 9 and 10 is in error for at least the reasons discussed above.

Appellants further submit that the rejection of claim 10 is in error for additional reasons. In particular, claim 10 depends from claim 9, which recites the housing of the multipurpose console further including "a built-in speaker and a sound contact adapted to cooperate with the vehicle to provide sound to the speaker." Claim 10 further specifies that the latching mechanism includes at least one of the power and sound contacts, and that the power and sound contacts are "adapted to cooperate with mating power and sound contacts of the vehicle when the latching mechanism is fastened to the mounting [mechanism] of the vehicle." Thus, the sound contact is a component designed to mate with another component to complete a circuit and provide sound to the built-in speaker; it is one half of a mating pair. See Appellants' specification, paragraph [0038]. Such a component enables the multipurpose console with the built-in speaker to be easily removed from the vehicle, unlike conventional wiring interfaces associated with speakers.

The Examiner acknowledges that *Soeters*, as modified (in view of *Larsen*), does not disclose a built-in speaker and sound contacts. Office Action mailed November 15, 2006, at page 4. To cure this deficiency, the Examiner relies on *Johnson* as disclosing a console with an electrical component mounted within a housing and a speaker assembly 32 connected to the electrical component. *Id.* Accordingly to the Examiner, "[t]he device and speaker system of

Johnson inherently includes 'sound contacts' between the electrical component and the speaker as broadly recited." *Id.* The Examiner also asserts that these inherent sound contacts "are considered to 'cooperate with sound contacts of the vehicle.'" *Id.* Applicants submit that this rejection is in error for several reasons.

First, the Examiner does not indicate that the alleged sound contacts in *Johnson* are "adapted to cooperate with mating . . . sound contacts of the vehicle," as required by claim 10. *Johnson* merely provides a communications console 10 having a housing 11 with an opening 31 for accommodating a speaker assembly 32. The reference is silent as to the type of connection between the speaker assembly and any electrical components within the housing. If anything, *Johnson* appears to indicate that wires extend through the housing and to the speaker assembly such that mating components are not required. For example, *Johnson* states that "[t]he console 10 is also formed with smaller openings, for example, 41, 42, and 43, to provide access for cords and cables to connect the equipment within the housing to external elements such as microphones, power supplies and antennas." Col. 2, lines 41-45. Traditional wiring interfaces, opposed to mating pairs of contacts, are all that is needed in *Johnson* because neither the console 10 nor speaker assembly 32 are described as being easily removable. Thus, incorporating the speaker assembly and types of connections inherently disclosed in *Johnson* into the console of *Soeters* would not allow the housing to be removed from the vehicle and transported, as required by claim 10 (by virtue of depending from claim 8 via claim 9).

Furthermore, the Examiner does not indicate how the inherent sound contacts in *Johnson* are adapted to cooperate with a mating sound contact "when the latching mechanism is fastened to the mounting [mechanism] of the vehicle," as further required by claim 10. Indeed, *Johnson* does not and cannot disclose such a sound contact because the console in the reference does not include a latching mechanism. The Examiner merely points to *Johnson* as disclosing sound contacts adapted to "cooperate with sound contacts of the vehicle," disregarding the remainder of the recitation in Appellants' claim 10.

For at least these additional reasons, Appellants submit that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claim 10. Accordingly, Appellants request that the rejection of claim 10 be reversed.

C. Claims 13 and 14 were improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over Soeters in view of Larsen and Grabowski.

Claims 13 and 14 depend directly or indirectly from claim 8. The Examiner argues that claims 13 and 14 are unpatentable over the references applied to claim 8, and further in view of *Grabowski*. Because *Grabowski* fails to cure the deficiencies of *Soeters* and *Larsen*, Appellants submit that the rejection of claims 13 and 14 was in error for at least the reasons discussed above.

Appellants further submit that the rejection of claim 13 is in error for additional reasons. In particular, claim 13 recites the housing of the multipurpose console further including "a rechargeable battery source and an inverter to provide battery power to the console," with "the power contact further adapted to recharge the battery source." Such an arrangement enables the electronic components with the housing to be powered after the housing has been removed from the vehicle.

The Examiner acknowledges that the console of *Soeters*, as modified (in view of *Larsen*), does not disclose the use of a battery for the console and relies upon *Grabowski* to cure this deficiency. Office Action mailed November 15, 2006, at page 5. The battery disclosed in *Grabowski*, however, is a car battery 14 disposed within a housing/console structure 16 affixed to the vehicle. See, e.g., Fig. 1 and col. 3, lines 14-23. Therefore, combining *Grabowski* with *Soeters* and *Larsen* would not result in a battery within a housing that is removable from the vehicle, as required by claim 13. Moreover, nothing in *Grabowski* teaches or suggests a battery being rechargeable by a power contact on a housing, as further required by claim 13. The Examiner's broad assertion that it would have been obvious for one of ordinary skill in the art to provide the console of *Soeters* with battery power as taught by *Grabowski* fails to indicate how this combination renders the particular invention recited in claim 13 unpatentable.

For at least the above reasons, Appellants submit that the Examiner has failed to present a *prima facie* case of obviousness with respect to claim 13. Accordingly, Appellants request that the rejection of claim 13 be reversed.

D. Claim 15 was improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over Soeters in view of Larsen, Gaus, and Johnson.

Claim 15 depends directly from claim 8. The Examiner argues that claim 15 is unpatentable over the references applied to claim 8, and further in view of *Gaus* and *Johnson*.

Because *Gaus* and *Johnson* fail to cure the deficiencies of *Soeters* and *Larsen*, Appellants submit that the rejection of claim 15 was in error for at least the reasons discussed above. Specifically, like *Soeters* and *Larsen*, neither *Gaus* nor *Johnson* disclose a multipurpose console having a housing with a latching mechanism "fixedly secured to a lower surface of the housing" and a "transport device configured to removably connect with the housing to transport the housing when the housing is removed from the vehicle." Accordingly, Appellants request that the Examiner's rejection of claim 15 be reversed.

VIII. Conclusion

In conclusion, Appellants respectfully request that the Board reverse the Examiner's rejection of claims 8-15, and that the application be passed to issue. If any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,
WOOD, HERRON & EVANS, L.L.P.

Date: September 24, 2007

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APPENDIX OF CLAIMS

8. A multipurpose console for use in a vehicle, comprising:
- a housing comprising:
 - a power contact adapted to cooperate with a power source of the vehicle to provide power to the console;
 - a latching mechanism, the latching mechanism being fixedly secured to a lower surface of the housing and configured to releasably engage a mounting mechanism of the vehicle so that the housing may be fastened thereto and removed therefrom; and
 - a transport device configured to removably connect with the housing to transport the housing when the housing is removed from the vehicle.
9. The multipurpose console of claim 8 wherein the housing further includes a built-in speaker and a sound contact adapted to cooperate with the vehicle to provide sound to the speaker.
10. The multipurpose console of claim 9 wherein the latching mechanism includes at least one of the power and sound contacts, the power and sound contacts adapted to cooperate with mating power and sound contacts of the vehicle when the latching mechanism is fastened to the mounting member of the vehicle.

11. The multipurpose console of claim 8 wherein the housing further includes at least one anchor point associated therewith, the transport device being configured to be removably secured to the at least one anchor point to transport the housing.

12. The multipurpose console of claim 11 wherein the housing further includes opposing ends and the at least one anchor point comprises two anchor points, each of the two anchor points associated with one end of the housing, the transport device further including opposing ends, each of the opposing ends of the transport device being configured to be removably secured to one of the two anchor points to transport the housing.

13. The multipurpose console of claim 8 wherein the housing further includes a rechargeable battery source and an inverter to provide battery power to the console, the power contact further adapted to recharge the battery source.

14. The multipurpose console of claim 8 wherein the housing further includes a 110 volt power outlet adapted to receive a plug and provide power to an independent electronic device, the power contact further adapted to provide power to the outlet.

15. The multipurpose console of claim 8 wherein the housing further includes a first compartment, the first compartment having a thermoelectric cooling device for cooling the first compartment, and wherein the housing further includes an electronic device including at least one of a radio, or MP3 input, the power source adapted to provide power to the thermoelectric device and the electronic device.

APPENDIX OF EVIDENCE

(None)

APPENDIX OF RELATED PROCEEDINGS

(None)